

FCC MAIL SECTION

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Before the  
Federal Communications Commission  
Washington, D.C. 20554

DISPATCHED BY

MM Docket No. 93-201

In the Matter of

Amendment of Section 73.202(b)	RM-8213
Table of Allotments,	RM-8252
FM Broadcast Stations.	
(Walla Walla and Waitsburg, Washington)	

**REPORT AND ORDER**  
(Proceeding Terminated)

Adopted: June 5, 1995;

Released: June 13, 1995

By the Chief, Allocations Branch:

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 8 FCC Rcd 4468 (1993), issued in response to two conflicting petitions for rule making. Walla Walla Christian Broadcasters ("WWCB") filed a proposal requesting the allotment of Channels 256A and 270A at Walla Walla, Washington, as the community's

fifth and sixth local commercial FM transmission services (RM-8213).<sup>1</sup> Brett E. Miller ("Miller") filed a proposal requesting the allotment of Channel 270C3 at Waitsburg, Washington, as the community's first local aural transmission service (RM-8252).<sup>2</sup> Miller filed comments in support of his proposal reaffirming his intention to apply for the Channel 270C3 at Waitsburg, if allotted.<sup>3</sup> Comments and counterproposals were filed by WWCB and KHSS, Inc. ("KHSS"), permittee of Station KHSS(FM), Channel 264C3, Walla Walla, Washington.<sup>4</sup> Reply comments were filed by WWCB.

2. Conflicting proposals are comparatively considered under the guidelines set forth in *Revision of FM Assignment and Policies and Procedures*, 90 FCC 2d 88 (1982).<sup>5</sup> However, because of the withdrawal of Miller's petition and the dismissal of the counterproposals, such a comparison is no longer necessary. Therefore, we believe the public interest would be served by allotting Channels 256A at Walla Walla, Washington, since it would provide the community with an additional local commercial FM service. An engineering analysis has determined that Channel 256A can be allotted to Walla Walla in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction.<sup>6</sup>

3. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective July 28, 1995, the FM Table of

<sup>1</sup> We note that "[i]n markets with fewer than 15 stations where the less than 50 percent' standard would permit ownership of three stations, an entity may not own three same service stations; pursuant to the new local rules, no more than two of those three stations may be in the same service." Accordingly, WWCB is eligible to apply for two FM channels at Walla Walla. See *Revision of Radio Rules and Policies (Memorandum Opinion and Order)*, 7 FCC Rcd 6387 (1992).

<sup>2</sup> On March 2, 1995, Miller filed a request for withdrawal of his proposal. Pursuant to Section 1.420(j) of the Commission's Rules, Miller states that no consideration was received in exchange for his withdrawal. Therefore, we hereby grant the withdrawal request. Accordingly, responsive pleadings to the proposal are moot and will not be discussed herein.

<sup>3</sup> As stated in the *Notice*, Miller's petition, although signed and an address provided, did not verify the statements contained in the petition, as required by Section 1.52 of the Commission's Rules. Miller was requested to correct the deficiency in his responsive comments, and has complied accordingly.

<sup>4</sup> WWCB filed a counterproposal requesting the allotment of Channel 270C2 at Waitsburg, Washington, in lieu of the proposed allotment of Channel 270A at Walla Walla, Washington. To accommodate the proposal, WWCB also requests the substitution of Channel 255C3 for Channel 269C3 at Prosser, Washington, and the modification of Station KZXR(FM)'s license accordingly. Alternatively, in the event Miller expressed no continuing interest in an allotment at Waitsburg, WWCB proposes the allotment of Channel 270C2 at Walla Walla, Washington, with the substitution of Channel 255C3 for Channel 269C3 at Prosser, Washington. In its comments, WWCB reaffirms its intention to apply for Channel 256A at Walla Walla, if allotted. In its reply comments, WWCB reiterates the requests stated in its counterproposal. Both of WWCB's counterproposals require the substitution of Channel 255C3 for Channel 269C3 at Prosser, Washington. Since the proposed substitution at Station KZXR(FM)'s presently licensed site (46-11-12 and 119-45-13) is

short-spaced to Station KEZX(FM), Channel 255C, Seattle, Washington, and now to the application sites for Channel 254A, Mabton, Washington, WWCB's counterproposals are technically defective. In its counterproposal, KHSS requests the substitution of Channel 264C2 for Channel 264C3 at Walla Walla, Washington, and the modification of Station KHSS(FM)'s construction permit accordingly. We note that the counterproposal was filed subsequent to the Commission's amended Rules to permit, *inter alia*, modification of FM authorizations through a "one-step" application process. See, *FM Channel and Class Modifications by Applications*, 8 FCC Rcd 4735 (1993). Thus, since KHSS's proposal is not in conflict with any of the requests in the instant proceeding, KHSS should have submitted its proposal in the form of an application. In any event, an engineering analysis has determined that the proposed reference coordinates (45-59-04 and 118-10-08) for Channel 264C2 are short-spaced to vacant Channel 264C, Wallace, Idaho. Therefore, WWCB's counterproposal is also technically defective. Consequently, none of the counterproposals have been placed on Public Notice. Moreover, our records reveal that on February 16, 1994, KHSS filed a request for extension of time in which to build its Class C3 facility. A modification of the construction permit (File No. BMPH-940216JC) was granted on April 12, 1994 and expired on October 21, 1994. The construction permit was cancelled on December 21, 1994. There is no additional request for an extension of time pending. Therefore, because KHSS's construction permit has now been cancelled, its request for an upgrade need not be considered. Accordingly, responsive pleadings to the counterproposals will not be discussed herein.

<sup>5</sup> The allotment priorities are: (1) First full-time aural service; (2) Second full-time aural service; (3) First local service; and (4) Other public interest matters. [Co-equal weight given on priorities (2) and (3).]

<sup>6</sup> The coordinates for Channel 256A at Walla Walla are North Latitude 46-04-12 and West Longitude 118-19-48.

Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, to read as follows:

City	Channel No.
Walla Walla, Washington	227C1, 239C, 246C, 256A, 264C3

4. The window period for filing applications for Channel 256A at Walla Walla, Washington, will open on **July 28, 1995**, and close on **August 28, 1995**.

5. IT IS FURTHER ORDERED, That the petition filed by Brett E. Miller to allot Channel 270C3 at Waitsburg, Washington (RM-8252); the counterproposal filed by Walla Walla Christian Broadcasters to allot Channel 270C2 at Waitsburg, or alternatively, Channel 270C2 at Walla Walla, Washington; and the counterproposal filed by KHSS, Inc., to substitute Channel 264C2 for Channel 264C3 at Walla Walla, Washington, ARE DISMISSED.

6. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

7. For further information concerning this proceeding, contact Sharon P. McDonald, Mass Media Bureau, (202) 418-2180. Questions related to the window application filing process should be addressed to the Audio Services Division, FM Branch, Mass Media Bureau (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau